

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHWESTERN DIVISION**

JANE DOE,

Plaintiff,

v.

**THE UNIVERSITY OF NORTH
ALABAMA, DR. KENNETH D.
KITTS, DR. DAVID SHIELDS,
DR. JANA BEAVER, DR.
JEROME GAFFORD, &
TAMMY W. JACQUES,**

Defendants.

CIVIL ACTION NUMBER:

3:17-cv-01344-CLS

DECLARATION OF KENNETH D. KITTS

I, Kenneth D. Kitts, declare under penalty of perjury and pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. My name is Kenneth D. Kitts. I am the President of the University of North Alabama (“UNA”). I have served in this capacity since March 30, 2015.

2. The Board of Trustees of the University of North Alabama has delegated to me the discretion and authority to enter into employment contracts on behalf of UNA. I exercised that discretion in deciding to enter into an employment agreement with David Dickerson in 2015. I made this decision based on the recommendation of Dr. Jana Beaver (Chair of the Department of Management and

Marketing), Dr. Gregory A. Carnes (Dean of the College of Business) and Dr. John Thornell, (Vice President for Academic Affairs and Provost). Upon the recommendation of those administrators, I made the decision to offer Dickerson a position as a Visiting Associate Professor for the period August 7, 2015 through the end of the two-semester, 2015-2016 academic year. I also made the decision that Dr. Dickerson's employment would be converted to tenure-track if Dickerson achieved "Scholarly Academic" status under the guidelines of the American Association of Colleges and Schools of Business guidelines by May 1, 2016. A copy of the employment agreement with Dr. Dickerson that I entered into on behalf of UNA is attached hereto as Exhibit A.

3. In December 2015, I exercised my discretion to accept the recommendation to place Dickerson on administrative leave through the end of the Spring 2016 semester and to not renew his employment agreement when it expired. The recommendation was made by UNA's Provost, Dr. John Thornell, and the Dean of the College of Business Greg Carnes. I had the discretion to reject their recommendation and to immediately terminate Dickerson's employment. I carefully considered the possibility of immediate termination of employment versus the solution that was recommended. I was concerned that Dickerson would take the position that early termination of his contract would entitle him to a due process hearing where he could respond to and defend against the allegations of

sexual misconduct that our Title IX Office had investigated, and to be paid his salary during the hearing process. A hearing might have necessitated testimony from the students affected by his conduct, which could have been intimidating or emotionally challenging for those students. It also would have risked exposing the identities of these students, thus implicating the Family Educational and Privacy Rights Act (FERPA). I was informed that Dickerson had said that, if fired, he intended to file a grievance under UNA's policies and to defend against the accusations, which would have resulted in protracted delays that might have extended beyond May 1, 2016. I believed that would have presented many contractual ramifications and administrative complications. My intent in placing Dickerson on administrative leave was to get him off campus quickly and prohibit student contact. I believed that course of action would lessen the chance of the identities of the students involved becoming public and avoid any emotional impact on those students. I made the ultimate choice not to immediately terminate Dickerson's employment, but to accept the recommendation to place Dickerson on administrative leave until his contract term expired, because I believed that it protected the best interests of the students involved as well as those of the entire UNA community by removing him from campus while avoiding protracted procedural appeals and potential litigation by Dickerson.

Executed this 4th day of October 2017.



Kenneth D. Kitts

Declaration of Kenneth D. Kitts

Exhibit A

June 18, 2015



Dr. David B. Dickerson
[Redacted]

Dear Dr. Dickerson:

On the recommendation of Dr. Jana P. Beaver, Chair of the Department of Management and Marketing, Dr. Gregory A. Carnes, Dean of the College of Business, and Dr. John G. Thornell, Vice President for Academic Affairs and Provost, I am pleased to offer you a non-tenure-track appointment as Visiting Associate Professor of Marketing effective August 17, 2015, at a salary of \$95,000 for the academic year of two semesters. This salary can be paid in nine or 12 equal payments starting September 1, 2015, with your first paycheck to be dated September 30, 2015. This appointment is for the nine-month academic year only, and its renewal is subject to the needs of the University of North Alabama.

If 'Scholarly Academic' status is earned under AACSB guidelines by May 1, 2016, your position would be converted to tenure-track Associate Professor of Marketing. Once the College of Business has documented your 'Scholarly Academic' status, a tenure-track contract will be issued at that time. The time period you would serve in a non-tenure-track position will count toward fulfilling years of experience for tenure determinations when conversion to a tenure-track position occurs.

Upon your acceptance of this contractual arrangement, the University is willing to provide help with your moving expenses. This support is limited to a maximum of \$2,000 based on one trip for moving household effects between your current residence and the University of North Alabama. Original invoices and receipts will be needed for reimbursement up to the stated amount. Any questions concerning this provision should be directed to the Business Office at the University of North Alabama.

Salary payments are subject to deductions for participation in the Alabama State Teachers' Retirement System, for FICA, and for federal and state income taxes. Coverage under the University's medical care insurance program is mandatory and is effective on the first date of your employment. Your individual premium for this coverage will be paid in full by the University. You may add coverage for your eligible family members by paying the additional premium. Effective the first date of your employment you will be eligible for enrollment in the University's group dental plan. Your individual premium will be paid in full by the University and you may add your eligible family members by paying the additional premium. You will also be automatically enrolled in the University's group life and disability insurance programs after three months of employment. Your individual premiums will be paid by the University. In addition to the group life insurance coverage provided by the University, you will have an

OFFICE of the PRESIDENT

UNA Box 5004, Florence, AL 35632-0001

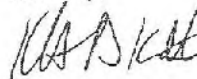
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opportunity to purchase additional life insurance for yourself and your dependents at a group rate if you so choose. Furthermore, the University provides a \$6.00 premium credit toward an array of voluntary benefits from which you may choose. The effective date of these policies will be on the first of the month following your first full month of employment. You will receive information regarding these benefit choices during your Welcome and Orientation session. Absence leave will accrue at the rate of 12 days per 12 months. The above-mentioned benefits are subject to change either by law or by action of the University.

This offer is contingent upon the completion of a background investigation which reveals satisfactory results and satisfactory proof of United States employment eligibility pursuant to the Immigration Reform and Control Act (IRCA) of 1986. The Office of Human Resources and Affirmative Action will contact you regarding the acceptable documents needed for verification of employment eligibility in compliance with this law. If the terms of this offer are acceptable to you, please so indicate by dating and signing this letter in the place indicated below and returning the original letter to the Office of the President by July 3.

Sincerely,

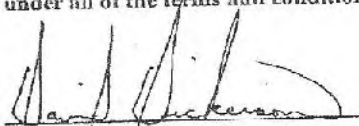


Kenneth D. Kitts
President

KDK/vv

cc: Dr. John G. Thornell
Mr. Clinton P. Carter
Ms. Donna Tipps
Dr. Gregory A. Carnes
Dr. Jana P. Beaver
Ms. Catherine D. White
Ms. Kari Kay Cassidy

I have read the above letter of employment and agree to accept the position offered under all of the terms and conditions set out within.


Name

29 JUNE 2015
Date

I would like to request that my salary be paid over ☒ 9 months ☐ 12 months for the duration of my contract.

